

REMARKS

In the Office Action of June 22, 2007, Claim 20 was allowed and Claim 15 was objected to for being dependent upon a rejected base claim but otherwise allowable. See page 7 of the Office Action. Applicants have amended Claim 15 so that it is an independent claim and does not depend from a rejected base claim. As such, Applicants respectfully submit that Claim 15 is in condition for allowance.

The Office has rejected claim 1 on page 2 of the Office Action, under 35 U.S.C. § 102, as being anticipated by United States Patent No. 5,535,264 (Starr et al.). Applicants respectfully traverse the rejection.

None of the cited references, including Starr et al., disclose or suggest the specific combination of claim 1. For example, Starr et al. does not disclose a method for communicating information to a caller such that said audible dial tone is capable of being recognized by a wait for dial tone modem so that the wait for dial tone modem can commence dialing, as recited in claim 1. Support for this claim amendment may be found in at least paragraph [0045] of Applicants' application.

In contrast to claim 1, Starr et al. does not disclose a method for communicating information to a caller such that said audible dial tone is capable of being recognized by a wait for dial tone modem so that the wait for dial tone modem can commence dialing. Starr et al. discloses a system in which the dial tone signal level is reduced upon going off-hook and a service offering announcement is made. See Starr et al. at column 5, lines 47-50; column 8, lines 9-11; and column 8, lines 56-58. Nowhere does Starr et al. disclose a method for communicating information to a caller such that said audible dial tone is capable of being recognized by a wait for dial tone modem so that the wait for dial tone modem can commence dialing. Hence, claim 1 is allowable.

Claims 2-14 and 16-18 depend from claim 1, which Applicants have shown to be allowable. Hence, Starr et al. fails to disclose at least one element of each of claims 2-14 and 16-

18. Accordingly, claims 2-14 and 16-18 are also allowable, at least by virtue of their dependence from claim 1.

Claim 19 was rejected on page 6 of the Office Action, under 35 U.S.C. § 103(a), as being unpatentable over Starr et al. in view of United States Patent Number 5,034,947 (Epps) and United States Patent Number 6,157,709 (Lawser et al.). Applicants respectfully traverse the rejection.

None of the cited references, including Starr et al., Epps and Lawser et al., disclose or suggest the specific combination of claim 19. For example, the combination does not disclose a method wherein said audible information message has the characteristic of being whisper-like such that said audible dial tone is louder than said audible information message, as recited in claim 19. Support for this claim amendment may be found in at least paragraph [0045] of Applicants' application.

The Office Action admits that Starr et al. does not disclose audible information that has the characteristic of being whisper-like and cites Epps to address this deficiency. See page 6 of the Office Action. Epps discloses a circuit for permitting two parties to conduct a whisper conference in a conference call without the other parties in the conference call hearing the whisper conference. See Epps at column 1, lines 51-55. A "whisper conference" is described in Epps as being a conference in a conference call that is private and is not broadcast to the other parties on the conference call. See Epps at column 1, lines 22-27. The circuitry is arranged in Epps so that the two parties that are having the whisper conference can also hear all of the conversation in the main conference. See Epps at column 8, lines 48-52 and column 10, lines 45-48. As such, the disclosure of a "whisper" in Epps is not related to loudness but is instead related to privacy.

Further, it would not have been obvious for one having ordinary skill in the art to modify the base reference of Starr et al. that calls for reducing the signal level of the dial tone when superimposing the service offering announcement. See Starr et al. at column 5, lines 47-50 and column 8, lines 9-11 and lines 55-59.

Therefore, even if one were to combine Starr et al., Epps and Lawser et al. in the manner suggested, the resulting combination would fail to disclose a method wherein said audible information message has the characteristic of being whisper-like such that said audible dial tone is louder than said audible information message, as set forth in claim 19. As such, a case of *prima facie* obviousness has not been established with respect to claim 19, and Applicants respectfully submit that claim 19 defines over the combination of Starr et al., Epps and Lawser and is in condition for allowance.

CONCLUSION

Applicants have pointed out specific features of the claims not disclosed, suggested, or rendered obvious by the references applied in the Office Action. Accordingly, Applicants respectfully request reconsideration and withdrawal of each of the objections and rejections, as well as an indication of the allowability of each of the pending claims.

Any changes to the claims in this amendment, which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

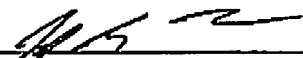
The Examiner is invited to contact the undersigned attorney at the telephone number listed below if such a call would in any way facilitate allowance of this application.

The Commissioner is hereby authorized to charge any fees, which may be required, or credit any overpayment, to Deposit Account Number 50-2469.

PATENT

Respectfully submitted,

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Date


Jeffrey G. Toler, Reg. No. 38,342
Attorney for Applicant(s)
TOLER SCHAFFER, L.L.P.
8500 Bluffstone Cove, Suite A201
Austin, Texas 78759
(512) 327-5515 (phone)
(512) 327-5575 (fax)